

The acts of 1846, ch. 271, and 1847, ch. 305, only apply to such bills of sale as are required to be acknowledged and recorded; hence if the property passes to the vendee, no affidavit is required—see notes to sec. 45. *Bryan v. Hawthorne*, 1 Md. 524; *Waters v. Dashiell*, 1 Md. 474.

Generally.

A mortgage without the formalities prescribed by sec. 45 and this section is subordinate to a second mortgage duly executed, acknowledged and recorded. *Butler v. Gannon*, 53 Md. 341.

The affidavit may be made at any time before recording, and before any person authorized to take the acknowledgment of the bill of sale or mortgage. *Fersner v. Bradley*, 87 Md. 492.

Though a bill of sale be defective in not having the affidavit, it may be set up as a valid contract in equity. *Ing v. Brown*, 3 Md. Ch. 525; *Alexander v. Ghiselin*, 5 Gill, 138.

Purpose of this section; a substantial compliance is sufficient. *Marlow v. McCubbin*, 40 Md. 136. And see *Mackintosh v. Corner*, 33 Md. 606. *Cf. Denton v. Griffith*, 17 Md. 304.

Cited in *In Re Universal Storage & Transfer Co.*, 4 F. Supp. 425.

For cases now apparently inapplicable to this section by reason of changes in the law, see *Fouke v. Fleming*, 13 Md. 412; *Wilson v. Carson*, 12 Md. 54.

See secs. 34 and 45, and notes.

An. Code, 1924, sec. 54. 1912, sec. 53. 1904, sec. 51. 1888, sec. 50. 1886, ch. 368.

55. In all cases, heretofore or hereafter, where bills of sale are taken on personal property, which, according to the true intent of the parties thereto, are chattel mortgages, upon the payment or discharge of the debts named in said bills of sale by the vendors, it shall be the duty of the vendee therein named to release said bills of sale or re-transfer the property mentioned therein to the vendors, which release or re-transfer may be made upon the original bills of sale, which may be returned to the record office, and said release or re-transfer entered upon the record book where the bill of sale is recorded, at the end of the record thereof, or the said release or re-transfer may be made in the presence of the clerk, with his attestation thereto, in the record book in which the bill of sale is recorded, at the end of the record thereof.

Cited but not construed in *State v. Md. Casualty Co.*, 164 Md. 74.

Chattel and Crop Mortgages.

An. Code, 1924, sec. 54A. 1935, ch. 281, sec. 54A.

56. (Chattel and Crop Mortgages; Eligible Mortgages; Property Which May Be Mortgaged; Lien in General.) Any person, association, partnership or corporation may enter into an agreement with and borrow funds from a Production Credit Association or a Bank for Cooperatives organized under the Farm Credit Act of 1933, a Regional Agricultural Credit Corporation, the Reconstruction Finance Corporation, or the Government of the United States or any department, agency or officer thereof, a Federal Intermediate Credit Bank, or any Institution which has made arrangements to discount therewith, or to procure funds therefrom on the security of the obligations of the borrower, and may secure the repayment of the funds so borrowed, and/or any then existing or future indebtedness to such institution, by chattel mortgage upon personal property of any kind, character or description owned at the time of the execution of the mortgage, or property of the same class as is covered by the mortgage if acquired by the mortgagor subsequent to the execution of the mortgage and prior to its extinguishment, and/or upon any crop or crops, annual or perennial, including fruit crops, grown or growing, either already planted or to be planted and/or maturing within one year from the execution of such mortgage. Such mortgage shall be a lien upon the property therein